

Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CAMERON LUNDQUIST, an individual, and
LEEANA LARA, an individual, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

FIRST NATIONAL INSURANCE COMPANY
OF AMERICA, a New Hampshire Corporation,
and LM GENERAL INSURANCE
COMPANY, an Illinois Corporation, and CCC
INFORMATION SERVICES
INCORPORATED, a Delaware Corporation,

Defendants.

No. 18-cv-05301-RJB

SECOND AMENDED COMPLAINT

Trial Date: April 6, 2020

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I. NATURE OF THE CASE

1. When a person's vehicle is declared a total loss, an automobile insurance company must not underpay claims by manipulating the data used to value the vehicle. Specifically, Washington law¹ prohibits insurance companies from reducing claim values for total losses with arbitrary, unexplained, and unjustified adjustments to the condition of comparable vehicles that are used to value the loss, bearing no relation to actual cash value. An insurer also must not misstate or conceal material facts that bear upon its estimate of value. Likewise, companies that sell valuation data to the insurers must not make arbitrary, unexplained, and unjustified adjustments to vehicle values and must ensure that they provide accurate and reliable vehicle values to insurers that pay total loss claims.

2. In negotiating and settling total loss claims, Defendants First National Insurance Company of America (First National), LM General Insurance Company (LMGIC), and CCC Information Services Inc. (CCC) flagrantly violate these rules. Defendants reduce the value of comparable vehicles by an arbitrary amount that they deem a "condition adjustment." They do so without itemizing or explaining the basis for the adjustment as required by Washington law. Defendants apply a uniform "condition adjustment" to multiple comparable vehicles involved in a valuation without even distinguishing one vehicle from the next. These arbitrary and unjustified condition adjustments artificially and improperly reduce claim payments by hundreds or thousands of dollars to plaintiffs and thousands of other policyholders.

3. First National and LMGIC (collectively, Insurer Defendants) are insurance companies bound to process claims fairly and make their insureds whole after an accident. The Insurer Defendants' systematic under-valuations and underpayments violate their insurance contracts with their insureds as well as Washington regulations² governing the adjustment of total loss claims. The Insurer Defendants' actions also violate Washington prohibitions on consumer deception and settling insurance claims in bad faith.

¹ See, e.g., WAC 284-30-320 and 391.

² See, e.g., WAC 284-30-320 and 391.

4. Defendant CCC Information Services (CCC) represents that it is a “leading provider” of “big data insights” to the insurance industry. CCC provides vehicle valuations to First National and LMGIC for paying total-loss vehicle claims. CCC unlawfully conspires with the Insurer Defendants to undervalue total loss claims and acts contrary to law, including total loss regulations WAC 284-30-320 and 391, by furnishing arbitrary and unexplained condition adjustments for use in the claims handling process.

5. Plaintiffs bring this class action on behalf of all those insured under automobile insurance policies issued in the State of Washington by First National Insurance or LM General Insurance Company whose claim valuations were based upon the values of comparable vehicles that were reduced by artificial, unexplained “condition adjustments” that were supplied by CCC.

6. Plaintiffs seek for themselves and the class compensatory damages, treble damages, and attorney’s fees, as well as declaratory and injunctive relief.

II. JURISDICTION

7. This Court has jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), because the proposed Class consists of 100 or more members; the amount in controversy exceeds \$5,000,000, exclusive of costs and interest; and minimal diversity exists. Plaintiffs are citizens of Washington, First National is a citizen of New Hampshire (where it is incorporated and has its principal place of business), LMGIC is a citizen of Illinois (where it is incorporated) and has its principal place of business in Massachusetts, and CCC is a citizen of Delaware (where it is incorporated) and has its principal place of business in Illinois.

8. This Court has personal jurisdiction over First National because First National is a corporation licensed and authorized to do business in Washington and has transacted business in Washington. This Court has personal jurisdiction over LMGIC because LMGIC is a corporation licensed and authorized to do business in Washington and has transacted business in Washington. This Court has personal jurisdiction over CCC because CCC has purposefully directed its activities toward Washington by contracting to provide valuation services to insurance carriers in Washington for use in settling and underpaying total loss claims of

1 Washington resident insureds. This Court has personal jurisdiction over Plaintiffs because
2 Plaintiffs consent to this Court's jurisdiction.

3 **III. VENUE**

4 9. Venue is proper in this District under 28 U.S.C. § 1391 because this is the District
5 in which Plaintiffs' insurance benefits were denied and the cause of action arose.

6 **IV. PARTIES**

7 10. Plaintiff Cameron Lundquist ("Lundquist") was at all relevant times a resident of
8 the State of Washington.

9 11. At all times pertinent, Lundquist was insured under a policy of automobile
10 insurance with First National that included coverage for the total loss of a vehicle.

11 12. Plaintiff Leeana Lara ("Lara") was at all relevant times a resident of the State of
12 Washington.

13 13. At all times pertinent, Lara was insured under a policy of automobile insurance
14 with LMGIC that included coverage for the total loss of a vehicle.

15 14. First National Insurance Company is a New Hampshire corporation with its
16 principal place of business in New Hampshire.

17 15. First National is an underwriting company wholly owned by Safeco Insurance
18 Company ("Safeco"), a New Hampshire insurance company. Safeco is wholly owned by Liberty
19 Mutual Agency Company, an insurance company incorporated in Delaware, which is wholly
20 owned by Liberty Mutual Insurance Company, a Massachusetts insurance company (Liberty
21 Mutual).

22 16. LM General Insurance Company is an Illinois corporation with its principal place
23 of business in Massachusetts.

24 17. LM General Insurance Company is also wholly owned by Liberty Mutual.

25 18. CCC is a Delaware corporation with its principal place of business in Illinois.
26
27
28

V. FACTUAL ALLEGATIONS

A. First National and LMGIC obtain and rely on manipulated data from CCC to underpay total loss claims.

19. All allegations contained in previous paragraphs are incorporated herein by reference.

20. First National is the second-largest personal lines insurance company in the United States. First National issues automobile insurance policies to consumers in the State of Washington.

21. Safeco touts itself and its subsidiaries as reliable and trustworthy sources of insurance coverage. On its website, Safeco states “trust matters when it comes to some of your biggest investments, like your home, car, and even your boat.” Safeco claims that it “has always kept with the tradition of putting our customers first.”

22. The Defendants’ parent Company, Liberty Mutual, is the sixth largest automobile insurance company in the nation. It wrote more than \$10.7 million in auto insurance policies in 2017, approximately 5% of the national market share.

23. Liberty Mutual’s website boasts that it and its subsidiaries “[help] people preserve and protect what they earn, build, own, and cherish. Keeping this promise means we are there when our customers need us most.”

24. But when the Insurer Defendants’ customers’ cars are wrecked in life-changing accidents, or are otherwise totaled, they betray these principles, playing games and putting profits ahead of people. With CCC’s assistance, the Insurer Defendants fudge the numbers to shortchange vulnerable consumers, who are relying on the Insurer Defendants to pay fair value so they can afford to buy a replacement, which in many cases was their sole car. Pursuant to their agreement, CCC provides the Insurer Defendants with valuation reports that apply unjustified, unexplained, and unitemized condition adjustments to the values of comparable vehicles used to value total loss claims. All three Defendants work in concert to create policies and infrastructure that cheat insureds out of dollars to which they are entitled.

25. As wholly owned subsidiaries of the same parent company, Liberty Mutual, First National and LMGIC share common personnel, policies, and infrastructure regarding the handling of total loss claims in Washington. For example, the companies share their administrative headquarters at 175 Berkeley Street, Boston, Massachusetts. According to First National's 2017 Annual Statement, the Defendants' Federal income tax returns are consolidated. Defendants are also party to a management services agreement under which Liberty Mutual provides each Defendant with office infrastructure and services including risk underwriting, claims processing, claims adjustments, policyholder services, and contract management and administration. Both companies use common personnel and resources for statutory compliance matters. Both companies use CCC valuation reports to value loss vehicles with no distinction in form or substance between reports generated for one company or the other.

26. Upon information and belief, both companies follow a single set of guidelines, methods, and policies regarding the application of condition adjustments to loss vehicles and comparable vehicles.

27. First National and LMGIC's standard form automobile policies both provide coverage for the total loss of a vehicle.

28. For total loss claims, the Defendants must base any cash settlement offer on the "actual cash value of a comparable motor vehicle." WASH. ADMIN. CODE § 284-30-391(2).

29. In the event of a total loss, First National and LMGIC's policies each promise they will pay the insured the "actual cash value" of the vehicle before the loss.

30. For total loss claims, the Defendants must "[b]ase all offers on itemized and verifiable dollar amounts for vehicles that are currently available . . . using appropriate deductions or additions for options, mileage or condition when determining comparability." WASH. ADMIN. CODE § 284-30-391(4)(b).

31. For total loss claims, "[a]ny additions or deductions from the actual cash value must be explained to the claimant and must be itemized showing specific dollar amounts." WASH. ADMIN. CODE § 284-30-391(5)(d). The purpose of this requirement is to ensure that any

1 adjustments are reasonable and justified and to ensure that consumers have the ability to evaluate
2 and challenge any deductions that are improper.

3 32. Systemically, the Defendants fail to offer and pay the actual cash value.

4 33. First National and LMGIC base their offers and payments on manipulated data
5 and reports furnished by CCC that do not satisfy Washington law, imposing arbitrary and
6 unexplained “condition adjustments” to artificially reduce the values of comparable vehicles.

7 34. CCC advertises itself as “a leading provider of innovative cloud, mobile,
8 telematics, hyperscale technologies and apps for the automotive, insurance, and collision repair
9 industry.” Its website states that “CCC’s solutions and big data insights are delivered through the
10 powerful CCC ONE™ platform, which connects a vast network of 350+ insurance companies,
11 24,000+ repair facilities, OEMS, hundreds of parts suppliers, and dozens of third-party data and
12 service providers.” CCC caters to the needs and demands of the insurance industry, stating its
13 aim to “[t]rack claim process efficiencies and help ensure customers [insurers] are happy and
14 engaged.”

15 35. CCC also touts the accuracy of its total loss valuations on its website. The website
16 states, “CCC ONE Valuation offers accurate, verifiable total loss valuations.” CCC promises to
17 give insurers’ customers “the confidence of knowing they’re getting a vehicle valuation based on
18 verifiable data.” CCC says its services will “BOOST YOUR CUSTOMERS’ CONFIDENCE”
19 by making it “easier for you to explain the valuation to your customers.”

20 36. CCC and the Insurer Defendants collaborate in the creation of the valuation report
21 for each total loss vehicle. Under the contracts between CCC and the Insurer Defendants, CCC
22 and the Insurer Defendants agreed that CCC would provide vehicle valuations based on current
23 market data for total loss claims as well as a written report with that data for each total loss
24 vehicle. The Insurer Defendants have contracted with CCC to furnish valuation reports to be
25 used in the process of valuing total loss claims and adjusting the claims for insureds. Upon
26 information and belief, the Insurer Defendants conducted due diligence on CCC’s methodology
27 or knew or should have known before contracting that CCC’s application of condition
28

1 adjustments to the values of comparable vehicles did not comply with Washington law and
2 results in deception, delays, and underpayments of motor vehicle total loss claims.

3 37. For each claim, the Insurer Defendants provide basic information about the loss
4 vehicle and its condition and configuration. CCC then populates the report with the sales prices
5 of purportedly comparable vehicles it identified that recently sold or were for sale in the
6 geographic area of the insured, and then applies a downward condition adjustments to the values
7 of those comparable vehicles. CCC takes an active role in collecting valuation data on
8 comparable vehicles and then reducing those valuations to serve the economic interests of the
9 insurer. These reports are arbitrary, unexplained, unjustified, unitemized, inconsistent, and
10 contrary to Washington law, as alleged throughout this Complaint.

11 38. The reports contain a purported valuation for the loss vehicle based upon the data
12 in the report. Upon information and belief, the Insurer Defendants verify the results of some or
13 all of CCC's total loss valuations and know, or should know, that the application of condition
14 adjustments to the values of comparable vehicles does not comply with Washington law and
15 results in deception, delays, and underpayments of motor vehicle total loss claims.

16 39. Upon information and belief, CCC is aware that its total loss valuation method
17 does not comply with Washington law. CCC designs its products and services to serve the needs
18 of the insurance industry nationwide. It markets its and documents its products and services to
19 insurers on a state-specific basis. Washington's total loss regulations, WAC 284-30-320 and -
20 391, expressly require itemization and explanation of condition adjustments. But CCC furnishes
21 the valuation reports to the Insurer Defendants anyway to further the economic interests of the
22 Insurer Defendants at the expense of their insurance customers.

23 40. The Insurer Defendants offer each insured a claim settlement equivalent to the
24 valuation amount found on the report.

25 41. The valuation reports reduce the estimated values of comparable vehicles, citing a
26 "condition adjustment," but fail to itemize or explain the basis for these condition adjustments.
27 These condition adjustments are arbitrary and unjustified. Indeed, even though each comparable
28 vehicle has unique characteristics, the reports reduce the value of multiple comparable vehicles

1 by the same amount, down to the last dollar, without any itemization or explanation for the
2 amount. These blind and arbitrary reductions bear no relation to the actual fair market value of
3 the comparable vehicles or the loss vehicle. The application of an arbitrary condition adjustment
4 to reduce the value of comparable vehicles artificially reduces the valuation of the loss vehicle to
5 benefit the insurer at the expense of the insured.

6 **B. First National underpaid the total loss claims of Plaintiff Lundquist.**

7 42. Lundquist owned a vehicle which was involved in an accident and damaged so
8 seriously as to be a total loss.

9 43. Lundquist made a claim with First National for the total loss of his vehicle. First
10 National provided written settlement offers to Lundquist.

11 44. CCC furnished a valuation report to First National to be used in adjusting the
12 claim for the value of the vehicle, in accordance with its contract with First National. First
13 National based each settlement offer upon the valuation report obtained from CCC.

14 45. Lundquist was the owner of a 1998 Dodge Ram 2500 Quad Cab that was totaled
15 in an accident in 2017. First National offered to pay, and did pay, \$18,406.12 attributable to the
16 value of the vehicle (minus deductible), citing the CCC valuation report. Lundquist was provided
17 the CCC valuation report when First National presented its proposed adjustment. Days after the
18 accident, First National emailed the CCC report to Lundquist together with a letter outlining the
19 vehicle valuation and claim settlement offer that was based in part on—and specifically referred
20 Lundquist to—the CCC valuation. The CCC valuation report was presented as an authoritative
21 source supporting First National's determination of value. The CCC valuation report listed
22 values of three different comparable vehicles and applied a negative uniform condition
23 adjustment of \$936 to all three of them without itemizing or explaining the basis of the
24 adjustment as required by Washington law. The report reduced the amount of these comparable
25 vehicles by exactly the same amount, regardless of any individual differences in the condition of
26 the vehicles. These blanket adjustments were arbitrary and unjustified, and they resulted in an
27 underpayment of \$936.

46. First National and CCC have acted with at least reckless disregard of the rights of others by manipulating the numbers to settle total loss claims. First National and CCC have devised valuation methods that are unfair, misleading, deliberately inconsistent, and calculated to confuse and deceive consumers and their advocates in the settlement process.

47. First National's and CCC's practices have cost consumers tens of millions of dollars in losses as their claims go underpaid. Meanwhile, First National and CCC reap millions in wrongful profits by betraying the trust of First National insureds.

C. LMGIC underpaid the total loss claims of Plaintiff Lara.

48. Lara owned a vehicle which was involved in an accident and damaged so seriously as to be a total loss.

49. Lara made a claim with LMGIC for the total loss of her vehicle. LMGIC provided written settlement offers to Lara.

50. LMGIC based each settlement offer upon a valuation report obtained from CCC.

51. Lara was the owner of a 2015 Dodge Charger SXT that was totaled in an accident in 2017. LMGIC offered to pay, and did pay, \$15,560.93 based upon a valuation of \$17,224.00 before applying taxes, fees, and deductions, citing its CCC valuation. Lara was provided the CCC valuation report when LM General presented its proposed adjustment. Days after the accident, LM General sent the CCC report to Lara together with a letter outlining the vehicle valuation and claim settlement offer based upon the CCC valuation. The CCC valuation report was presented as an authoritative source supporting LM General's determination of value. The CCC valuation report listed values of two different comparable vehicles and applied a negative uniform condition adjustment of \$842 to both of them without itemizing or explaining the basis of the adjustment as required by Washington law. The report reduced the amount of these comparable vehicles by the same amount, regardless of any individual differences in the condition of the vehicles. These blanket adjustments were arbitrary and unjustified, and they resulted in an underpayment of \$842.

52. As a result of LMGIC's undervaluation of Lara's vehicle and resulting dispute between Lara and LMGIC, the payment of Lara's claim was delayed leaving her without the

1 settlement funds needed to purchase a replacement vehicle and causing her additional out-of-
 2 pocket losses including approximately \$3,000 in fees for storage of the wreck charged by
 3 LMGIC as well as the expense of hiring an adjuster to dispute her claim.

4 53. LMGIC and CCC have acted with at least reckless disregard of the rights of
 5 others by manipulating the numbers to settle total loss claims. LMGIC and CCC have devised
 6 valuation methods that are unfair, misleading, deliberately inconsistent, and calculated to confuse
 7 and deceive consumers and their advocates in the settlement process.

8 54. LMGIC's and CCC's practices have cost consumers tens of millions of dollars in
 9 losses as their claims go underpaid. Meanwhile, LMGIC and CCC reap millions in wrongful
 10 profits by betraying the trust of LMGIC insureds.

11 VI. CLASS ACTION ALLEGATIONS

12 55. This action is brought and may properly be maintained as a class action, as it
 13 satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority
 14 requirements of Federal Rule of Civil Procedure 23. Plaintiffs bring all claims herein
 15 individually and as a class action (for the class defined below), pursuant to Federal Rule of Civil
 16 Procedure 23.

17 56. The class consists of the following:

18 All individuals insured by First National and LMGIC under a
 19 private passenger vehicle policy who, from the earliest allowable
 20 time to the date of judgment, received a first-party total loss
 settlement or settlement offer based in whole or in part on the price
 of comparable vehicles reduced by a "condition adjustment."

21 57. While the exact number of members cannot be determined, the class consists at a
 22 minimum of thousands of persons located throughout the State of Washington. The members of
 23 the class are therefore so numerous that joinder of all members is impracticable. The exact
 24 number of class members can readily be determined by documents produced by the Defendants.

25 58. There are questions of fact and law common to the class, including the following:

- 26 i. Whether the Defendants applied arbitrary and unexplained condition
 27 adjustments to comparable vehicles to calculate the value of loss vehicles;

- ii. Whether, through the foregoing practice, the Insurer Defendants breached their contracts with their insureds;
- iii. Whether, through the foregoing practice, the Insurer Defendants committed a breach of the common law duty of good faith and fair dealing;
- iv. Whether, through the foregoing practice, the Insurer Defendants violated the Insurance Fair Conduct Act, WASH. REV. CODE § 48.30.010 *et seq.*;
- v. Whether, through the foregoing practice, the Insurer Defendants violated regulations governing unfair claims settlement practices including WASH. ADMIN. CODE § 284-30-330 *et seq.*;
- vi. Whether, through the foregoing practice, the Defendants violated the Consumer Protection Act, WASH. REV. CODE § 19.86.020;
- vii. Whether, through the foregoing practice, CCC negligently supplied information for the guidance of others;
- viii. Whether, through the foregoing practice, CCC entered into an unlawful conspiracy with Insurer Defendants;
- ix. Whether the Defendants' use of improper condition adjustments to value loss vehicles caused injury to Plaintiffs and the class;
- x. Whether Defendants' actions were unreasonable, frivolous, or unfounded;
- xi. Whether Defendants' actions were reckless, malicious, or willful;
- xii. Whether Plaintiffs and the class are entitled to an award of compensatory damages;
- xiii. Whether Plaintiffs and the class are entitled to an award of treble damages;
- xiv. Whether Plaintiffs and the class are entitled to an award of attorney's fees;
- xv. Whether Plaintiffs and the class are entitled to declaratory and injunctive relief.

59. Plaintiffs have the same interests in this matter as all other members of the class, and their claims are typical of those of all members of the class. Plaintiffs' claims are coincident with and not antagonistic to those of other class members they seek to represent. Plaintiffs and all class members have sustained damages arising out of the Defendants' common course of conduct as outlined herein. The damages of each class member were caused by the Defendants' wrongful conduct.

1 60. Plaintiffs are committed to pursuing this action and have retained competent class
2 counsel experienced in insurance litigation and class action litigation. Plaintiffs will fairly and
3 adequately represent the interests of the class members.

4 61. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(2)
5 because the Defendants' actions are generally applicable to the class as a whole, and Plaintiffs
6 seeks, *inter alia*, equitable remedies with respect to the class as a whole.

7 62. Class certification is appropriate under Federal Rule of Civil Procedure 23(b)(3)
8 because the common questions of law and fact enumerated above predominate over questions
9 affecting only individual members of the class, and a class action is the superior method for fair
10 and efficient adjudication of the controversy. The likelihood that individual members of the class
11 will prosecute separate actions is remote due to the time and expense necessary to conduct such
12 litigation. Plaintiffs' counsel, highly experienced in insurance litigation and class action
13 litigation, foresees little difficulty in the management of this case as a class action.

14 **FIRST CAUSE OF ACTION**
15 **(Breach of Contract—Insurer Defendants)**

16 63. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth
17 herein.

18 64. The First National and LMGIC insurance contracts specifically provide for
19 payment of the "actual cash value" of a vehicle deemed a total loss.

20 65. The Insurer Defendants have breached their contracts by not offering to settle and
21 by not settling claims based upon the actual cash value of loss vehicles. The Insurer Defendants
22 departed from the use of actual cash values by basing their valuation and payment of the claim
23 on values of comparable vehicles that have been artificially reduced by an arbitrary and
24 unjustified "condition adjustment" that is not itemized or explained.

25 66. The Insurer Defendants' numerous breaches have resulted in a systematic failure
26 to pay the actual cash value of total loss vehicles as required by contract.

27 67. The Insurer Defendants' breaches and violations have caused damage to Plaintiffs
28 and the class.

SECOND CAUSE OF ACTION
(Breach of the Implied Covenant of Good Faith and Fair Dealing—Insurer Defendants)

68. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth herein.

69. The Insurer Defendants owed Plaintiffs and class members, as their insureds, a duty of good faith and fair dealing at all times during the existence of the insurance contract and while providing automobile insurance coverage, including when handling total loss claims for their insureds.

70. Insurer Defendants purposefully, in bad faith, and without regard to the rights of the Plaintiffs and the class, failed to pay the actual cash value of total loss vehicles. Insurer Defendants' actions breached the insurance contract and were unreasonable, frivolous, and unfounded.

71. Insurer Defendants' unfair acts and/or acts of bad faith include basing their valuation and payment of claims on values of comparable vehicles that have been artificially reduced by an arbitrary and unjustified "condition adjustment" that is not itemized or explained.

72. Insurer Defendants breached the covenant of good faith and fair dealing with the aforementioned conduct.

73. Insurer Defendants' breach of the obligation of good faith and fair dealing caused Plaintiffs and class members to incur damages as more fully set forth below.

THIRD CAUSE OF ACTION
(Consumer Protection Act, Violation of WASH. REV. CODE § 19.86.020—
All Defendants)

74. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth herein.

75. Defendants' actions complained of herein are deceptive trade practices that have the capacity to and do deceive consumers, as Defendants unreasonably denied payment of benefits to Plaintiffs and the class and knowingly misrepresented the basis for their total loss valuations. Insurer Defendants failed to adopt and implement reasonable standards for the investigation of claims. Insurer Defendants failed to conduct a reasonable investigation regarding

1 their claims payments. Insurer Defendants further made false representations as to the
 2 characteristics and benefits of their total loss coverage and insurance policies and represented
 3 that they were of a particular standard, quality, or grade knowing they were not. CCC
 4 intentionally or negligently supplied false and misleading valuation data to Insurer Defendants
 5 for the guidance of Insurer Defendants and their customers in the settlement of total loss claims,
 6 knowing the information would be used for this purpose and that the insured would see and rely
 7 on CCC's comparables. CCC's recommended comparable valuations were false because they
 8 included condition adjustments to the values of comparable vehicles that were unjustified,
 9 arbitrary, unitemized, and unexplained. These adjustments were false because they had no basis
 10 in fact, and regardless they resulted in a false statement of the value of the loss vehicle because
 11 they are contrary to Washington law and should not have been applied.

12 76. Defendants' aforementioned conduct continues to occur in the course of their
 13 business. Defendants' conduct is part of a generalized course of conduct repeated on thousands
 14 of occasions, and thus has an impact on the public interest.

15 77. Defendants' aforementioned conduct is in violation of the Washington Consumer
 16 Protection Act, in particular, but not limited to, WASH. REV. CODE § 19.86.020.

17 78. As a result of Defendants' actions, Plaintiffs and class members incurred damages
 18 as more fully set forth below.

19 **FOURTH CAUSE OF ACTION**
 20 **(Civil Conspiracy—All Defendants)**

21 79. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth
 22 herein.

23 80. As alleged above, CCC and the Insurer Defendants entered into agreements under
 24 which CCC would furnish the Insurer Defendants with valuation reports that undervalued total
 25 loss claims by applying unjustified, unexplained, and unitemized condition adjustments to the
 26 values of comparable vehicles. The use of these valuation reports to process and underpay claims
 27 violates the Insurer Defendants' contracts with their insureds as well as the Washington
 28 Consumer Protection Act, Wash. Rev. Code § 19.86.020.

1 81. The agreements between CCC and the Insurer Defendants constitute an agreement
 2 to accomplish a unlawful purposes, to wit, the breach of the insurance contracts (including
 3 provisions of Washington law that dictate the method by which total loss claims are valued) and
 4 Washington's prohibitions of unfair and deceptive claims handling practices. The agreements
 5 between CCC and the Insurer Defendants therefore constitute a civil conspiracy under
 6 Washington law.

7 82. As a result of Defendants' actions, Plaintiffs and class members incurred damages
 8 as more fully set forth below.

9 **FIFTH CAUSE OF ACTION**
 10 **(Declaratory and Injunctive Relief—All Defendants)**

11 83. Plaintiffs re-allege and incorporate the preceding paragraphs as if fully set forth
 12 herein.

13 84. Plaintiffs bring this cause of action for themselves and the class pursuant to
 14 Federal Rule of Civil Procedure 57 and 28 U.S.C. § 2201 seeking a declaration that, for those
 15 who maintain an auto insurance policy with the Insurer Defendants, it is a violation of
 16 Washington law and the insurance contract for all Defendants to base their valuation and/or
 17 payment of claims on values of comparable vehicles that have been artificially reduced by an
 18 arbitrary and unjustified "condition adjustment" that is not itemized or explained.

19 85. This court has the power to declare the rights of said First National and LMGIC
 20 policyholders and those who would be insured under such policies and who may suffer similar
 21 losses in the future, as well as those who have suffered valuation-related losses.

22 86. Plaintiffs, for themselves and on behalf of the Class, seek a declaration of rights
 23 under the First National policy and the LMGIC policy, and seek a declaration of the rights and
 24 liabilities of the parties herein.

25 87. With respect to Defendants' continuing unlawful practices, Plaintiffs have no
 26 plain, speedy, or adequate remedy at law, the interests of the parties favor an injunction, and an
 27 injunction is in the public interest. Plaintiffs therefore seeks an order permanently enjoining all
 28 Defendants from basing their valuations and/or payments of claims on values of comparable

1 vehicles that have been artificially reduced by an arbitrary and unjustified “condition
2 adjustment” that is not itemized or explained.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for the following judgment:

5 A. An Order certifying this action as a class action, including certifying each cause
6 of action under the appropriate subsection of Fed. R. Civ. P. 23;

7 B. An Order appointing Plaintiffs as class representatives and appointing the
8 undersigned counsel to represent the class;

9 C. Declaratory and injunctive relief, including an injunction requiring Defendants to
10 cease and desist from basing their valuation and payment of the claim on values of comparable
11 vehicles that have been artificially reduced by an arbitrary and unjustified “condition
12 adjustment” that is not itemized or explained;

13 D. Treble damages under common law and by statute, under WASH. REV. CODE
14 § 19.86.090;

15 E. Compensatory damages as warranted by Defendants’ breach of the contracts of
16 insurance, and their bad faith;

17 F. An award of attorney’s fees and costs, as provided by law and/or as would be
18 reasonable from any recovery of monies recovered for or benefits bestowed upon the class; and

19 G. Such other and further relief as this Court may deem just, equitable, or proper,
20 including a designation that any unclaimed monies may go to the next best use.

21 **JURY DEMAND**

22 Pursuant to Rule Local Rules W.D. Wash. LCR 38, Plaintiffs demand a trial by jury of all
23 of the claims asserted in this complaint so triable.

1 Dated: April 26, 2019

Respectfully submitted,

2 HAGENS BERMAN SOBOL SHAPIRO LLP

3 By /s/ Steve W. Berman

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CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2019 a true and correct copy of the foregoing was filed electronically by CM/ECF, which caused notice to be sent to all counsel of record.

s/ Steve W. Berman

Steve W. Berman